

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Lloyd Wolfenbarger, Jr.

Appl. No.: 09/073,877

Filed: May 7, 1998

For: **Textured Bone Allograft, Method of Making and Using Same**



Art Unit: 3732

Examiner: Hirsch, P.

Atty. Docket: LN.010

EC
11-16-99
#6
Reg. Fee
Recon

RESPONSE AND AMENDMENT UNDER 37 C.F.R. § 1.115

The Assistant Commissioner of
Patents and Trademarks
Washington, D.C. 20231

Dear Sir:

This amendment is submitted responsive to the Office Action dated August 20, 1999, issued in the above-identified application for which a response is due to be filed with the United States Patent and Trademark Office on or before November 20, 1999.

Please amend the application as follows:

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REMARKS

Claims 1-26, are pending in the present application. No new matter has been added.

- I. At pages 2 and 3 of the Office Action, Claims 1-26 have been rejected under 35 U.S.C. §103 as being unpatentable over Senter et al. in view of Heggeness et al., Wagner et al., Cottle, Gross et al. and McKay.***

The Examiner states that it would be obvious in view of the teachings of Senter et al. and Heggeness et al. to form a prosthesis such as taught by Senter et al. with the known and conventional shapes of spinal prosthesis. More specifically, the Examiner states that Heggeness et al. teaches that allografts can be produced in various sizes and shapes, and that the inclusion of various shaped protrusions such as ridges, pyramids, points of known construction in bone prosthesis such as taught by Wagner et al., Cottle, McKay and Gross et al., is considered a matter of obvious design choice to one of ordinary skill in the art as well as specific dimensioning. The Examiner further states that